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**Mary Doe, Guardian Ad Litem for Jane Doe v. Roberto v. Arguelles,
et al. : Order**

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FEB 16 1988

H. Dixon, Judge, Clerk 3rd Dist. Court
By K. M. Peters
Deputy Clerk

DAVID L. WILKINSON
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Salt Lake City, Utah 84114
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IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY
STATE OF UTAH

MARY DOE, Guardian ad Litem
for JANE DOE,

Plaintiff,

-vs-

ROBERTO V. ARGUELLES, STATE
OF UTAH, UTAH STATE
DEPARTMENT OF SOCIAL SERVICES,
ANTHONY W. MITCHELL, Executive
Director of Utah State Department
of Social Services, UTAH
STATE YOUTH DEVELOPMENT CENTER,
RONALD STROMBERG, RALPH F.
GARN, Superintendents of Utah
State Youth Development Center,
RUSS VAN VLEET, Treatment
Plan and Release
Coordinator for Utah State
Youth Development Center,

Defendants.

O R D E R

Civil No.
C-81-4944

This matter came on for hearing on the State
Defendants' Motion to Dismiss or for Summary Judgment on

APPENDIX A

December 9, 1982, at 2:00 p.m. before the Honorable Philip R. Fishler. Plaintiff was represented by George M. Haley, Esq., Kipp and Christian, P.C., and the State Defendants were represented by Sharon Peacock, Assistant Attorney General. The Court having read and considered all pleadings, memoranda and authority, and having heard and considered the arguments of counsel, and good cause appearing,

THE COURT HEREBY FINDS and CONCLUDES that:

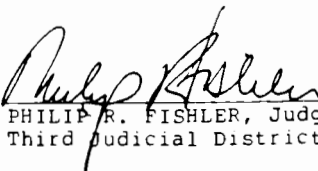
1. The acts complained of were discretionary functions for which the State Defendants have statutory immunity; and

2. The State Defendants have quasi-judicial immunity for decisions made by and pursuant to paroling authority.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the State Defendants' Motion to Dismiss or for Summary Judgment is granted, and this case is dismissed, with prejudice, as to defendants State of Utah, Utah State Department of Social Services, Anthony W. Mitchell, Utah State Youth Development Center, Ronald Stromberg, Ralph F. Garn, and Russ Van Vleet.

DATED this 10th day of February, 1983.

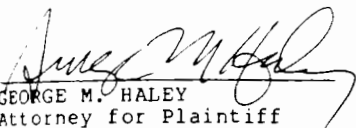
BY THE COURT:


PHILIP R. FISHLER, Judge
Third Judicial District Court


ATTEST
H. DIXON HINDLEY
CLERK
by 
Deputy Clerk

370

Approved as to Form:



GEORGE M. HALEY
Attorney for Plaintiff



SHARON PEACOCK
Assistant Attorney General
Attorney for State Defendants

IN THE SUPREME COURT OF THE STATE OF UTAH

RECEIVED

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Mary Doe, Guardian ad Litem
for Jane Doe,
Plaintiff and Appellant,

No. 19005 DEC 30 AIO:39

v.

FILED UTAH STATE
ATTORNEY GENERAL
December 19, 1985

Roberto V. Arguelles, et al.,
Defendants and Respondents.

Geoffrey J. Butler, Clerk

HOWE, Justice:

Plaintiff sued the defendants Robert Arguelles, State of Utah, Ronald Stromberg, et al., on behalf of her 14-year-old ward who was raped, sodomized, and stabbed by Arguelles, a juvenile, while he was on placement in the community, but before he had been finally discharged from the Youth Detention Center (YDC). The court below granted the defendants' motion for summary judgment on the grounds that plaintiff's complaint alleged acts that were immune from suit under Utah's Governmental Immunity Act, U.C.A., 1953, §§ 63-30-1, et seq., and also shielded by defendant Stromberg's quasi-judicial immunity for decisions made by him in his capacity as the acting superintendent of the YDC.

The only defendants involved in this appeal are the State and Stromberg, all others having been dismissed by stipulation of the parties. Under applicable standards of review, we state the facts most favorable to the plaintiff and resolve all doubts in her favor. Draper Bank & Trust Co. v. Lawson, Utah, 675 P.2d 1174 (1983). Summary judgment is proper only if the pleadings, depositions, affidavits, and admissions show that there is no genuine issue of material fact and that the defendants are entitled to judgment as a matter of law. Bushnell Real Estate, Inc. v. Nielson, Utah, 672 P.2d 746 (1983).

On December 19, 1979, 17-year-old Arguelles and Stromberg signed a placement agreement which released Arguelles from the YDC into the community. One requirement of his conditional release was a weekly meeting with a professional counselor which had been strongly recommended by staff and professional personnel previously charged with Arguelles's treatment and rehabilitation. He had a history of sexual violence involving children, including forcible sexual abuse on a 10-year-old girl, sodomy on a 6-year-old girl, and two counts of rape on a 16-year-old girl. The sodomy charge was dismissed for lack of evidence; the rape charge was dropped in the interest of justice. The forcible sexual abuse complaint

resulted in conviction. Staff at the Utah State Hospital, where Arguelles was enrolled in a sexual offender program for some time, assessed him as an extremely smooth, sophisticated young man, capable of manipulating his environment for his own satisfaction and pleasure, and a dangerous individual in need of a secured 24-hour residential setting. That evaluation echoed an earlier report sent to the juvenile judge as part of a presentence report. Mark Smith, Arguelles's probation officer for two years, considered Arguelles's behavior predictable "way ahead of time" and never doubted that he had the potential for extremely violent sexual behavior. The juvenile judge who committed Arguelles to the YDC expressed his grave concerns that Arguelles submit and respond to an effective treatment program before he was released back into the community, so that others would not be jeopardized by his behavior. He urged the State to meet its responsibility to treat the problem or, if that was impossible, to hold him in custody. Dr. Benjamin Taylor, a psychiatrist on contract with the YDC, after each of four sessions with Arguelles, warned of the possibility that Arguelles would find himself in a very tragic situation if he did not receive help, expressed strong dissatisfaction with the "fly-by-night" treatment that was being contemplated with Family Health Plan, and recommended instead a substantial professional therapy program as much as two to three times a week. Janet Warburton, a psychology trainee at the YDC, recommended that Arguelles not be released until he was established in a therapeutic relationship with a mature female therapist and warned that he continued to be a danger. Two weeks before Arguelles's release she again noted that long-term therapy treatment and a carefully monitored release program were imperative.

Arguelles was conditionally released because of his model behavior at the YDC. Thereafter, he had a total of four treatment sessions (one in December 1979, one in January, and two in February 1980) with Annette Gilmore, a graduate student in social work at Family Health Plan. Gilmore's name originally appeared on the placement agreement as Arguelles's therapist, but Stromberg struck her name from the agreement and replaced it with the words "a professional counselor." Stromberg admitted in deposition that he was concerned that Gilmore "may or may not have the ability to deal with this case" and wanted to assure that professional counseling was rendered. On March 6, 1980, less than three months after his placement in the community, Arguelles assaulted plaintiff's ward and was subsequently charged with attempted homicide, rape, and forcible sodomy.

Plaintiff assails the trial court's ruling that her claims against the State were barred by the Governmental Immunity Act and that quasi-judicial immunity shielded Stromberg from suit.

DISCRETIONARY FUNCTION EXCEPTION

Under section 63-30-10(1), immunity from suit of all governmental entities is waived for injury proximately caused by a negligent act or omission of an employee committed within the scope of his employment except if the injury "arises out of the exercise or performance or the failure to exercise or perform a discretionary function, whether or not the discretion is abused." Plaintiff alleged negligence in Stromberg's conduct as superintendent as that conduct related to the confinement, treatment, and decision to release or place Arguelles. She claimed that Stromberg's negligence was the proximate cause of the attack on her ward and that the attack was the foreseeable result of his failure to exercise due care. Defendants respond that the acts and omissions complained of are discretionary in nature and thus the plaintiff's claims are barred. In determining whether the immunity defense applies here, we must first decide as a matter of law if Stromberg's acts which gave rise to plaintiff's complaint were discretionary. Defendants contend that Stromberg's decision to release Arguelles and place him in the community required the type of personal deliberation and judgment which is normally accorded the governmental immunity shield intended by section 63-30-10(1). Our recent decision in Little v. Utah State Division of Family Services, Utah, 667 P.2d 49 (1983), restated the proposition that "[w]here the responsibility for basic policy decisions has been committed to one of the branches of our tripartite system of government, the courts have refrained from sitting in judgment of the propriety of those decisions." It is widely held that the decision to release, parole, or put on probation criminal defendants, juvenile delinquents, or mental patients is a decision of a judgment, planning, or policy nature. See generally Payton v. United States, 679 F.2d 475 (5th Cir. 1982); Cairl v. State, Minn., 323 N.W.2d 20 (1982); Johnson v. State, 69 Cal. 2d 782, 73 Cal. Rptr. 240, 447 P.2d 352 (1968); Annot., 6 A.L.R.4th 1155 (1981), and Annot., 5 A.L.R.4th 773 (1981). It accordingly follows that Stromberg's decision to place Arguelles fell into the category of functions designed to be shielded under the discretionary function exception, and his decision should not be questioned in a court of law. However, that does not end our inquiry in this case.

Stromberg was appointed superintendent of the YDC by the Division of Family Services to be the executive and administrative head of the YDC. U.C.A., 1953, § 64-6-5 (repealed 1981). As administrative head, he had authority to adopt policies and rules for the regulation of all the concerns of the YDC not inconsistent with law, subject to the approval of the division director and the Board of Family Services. § 64-6-3 (repealed 1981). Those rules provided for the placement of students outside of the center,

but such student shall remain in the legal custody and under the control of the center, and shall be subject at any time to be returned to the center, unless otherwise discharged. Full power to retake and keep any child on placement is conferred upon the superintendent of the center, whose written order shall be sufficient warrant to any officer authorized to make arrests to return to actual custody any student on placement.

§ 64-6-8 (repealed 1981).

Contrary to Stromberg's assertion in his deposition, he did not lose jurisdiction over Arguelles upon placing him in the community. Legal custody remained in the YDC, and Stromberg was both authorized and responsible to designate a qualified person to supervise Arguelles's conditional release. § 64-6-1.1(5) (repealed 1981). However, by designating a person to supervise Arguelles, Stromberg did not relieve himself of his duties to control Arguelles. The statutory qualifications of a superintendent demanded eight years of a combination of university training and experience in professional administration in fields related to the functions and administration of the YDC. § 64-6-5 (repealed 1981). Stromberg had authority to carry out innovative and cooperative programs in the care, treatment, placement, training, and evaluation of his charges. § 64-6-2 (repealed 1981). In that executive role, he owed duties to implement policy on a day-to-day, case-by-case basis.

Operational, routine, everyday matters not requiring evaluation of broad policy factors and which only implement established policy are nondiscretionary, ministerial functions. A decision or action implementing a preexisting policy is operational in nature and is undeserving of protection under the discretionary function exception. Little v. Utah State Division of Family Services, 667 P.2d at 52; Bigelow v. Ingersoll, Utah, 618 P.2d 50 (1980); Frank v. State, Utah, 613 P.2d 517 (1980). Because a probation officer's policy decisions are discretionary, he is immune from suit arising from those decisions. However, his acts implementing the policy must be considered on a case-by-case basis to determine whether they are ministerial and thereby outside the immunity protections. Semler v. Psychiatric Institute of Washington, D.C., 538 F.2d 121 (4th Cir. 1976) (citing Johnson v. State, 447 P.2d at 362).

By requiring weekly therapy sessions with a professional counselor, Stromberg personally implemented his decision to place Arguelles in the community. He was aware of the warnings from professionals that those treatments were imperative. Yet plaintiff asserts that he no more than in

passing inquired about Arguelles's progress and that he was not alarmed when he heard that Arguelles was treated by the Family Health Plan workers whom he had considered inadequate. His ongoing duty required an active, ongoing concern for Arguelles and the community. If it can be shown at trial that the injury to plaintiff's ward was proximately caused by Stromberg's omissions, it did not result from the discretion vested in him to place Arguelles in the community, but from his negligence in monitoring the prescribed treatment after making the discretionary decision to do so. Under those circumstances, the State would not be immune from suit under the discretionary function exception.

QUASI-JUDICIAL IMMUNITY

Stromberg attempts to seek refuge from liability in the common law principle of quasi-judicial immunity which is sometimes extended to public officers and employees. We note that section 63-30-4 was amended in 1978 to add subsection (2), which provides:

Nothing in this chapter shall be construed as adversely affecting any immunity from suit which a governmental entity or employee may otherwise assert under state or federal law.

Thus, our Governmental Immunity Act recognizes and preserves quasi-judicial immunity where applicable. In Cornwall v. Larsen, Utah, 571 P.2d 925 (1977), we held that a governmental agent performing a discretionary function is immune from suit for injury arising therefrom, but not when he is performing nondiscretionary tasks or acting in a ministerial capacity. See also Connell v. Tooele City, Utah, 572 P.2d 697 (1977), and Frank v. State, 613 P.2d at 520. In accordance with our discussion above concerning the State's immunity, it follows that Stromberg would enjoy no quasi-judicial immunity in the implementation of the plan of supervision which he had prescribed for Arguelles. However, the legislature has mandated in section 63-30-4(4) (as written in 1980 when plaintiff's injury arose) that no employee may be held personally liable unless it is established that his act or omission constituted gross negligence.¹ Plaintiff will thus be put to that high test in order to fix Stromberg's personal liability.

The summary judgment in favor of the State and Stromberg is reversed, and the case is remanded for a trial in accordance with this opinion.

1. Statute later amended, deleting liability for gross negligence.

WE CONCUR:

Gordon R. Hall, Chief Justice

I. Daniel Stewart, Justice

Christine M. Durham, Justice

Michael D. Zimmerman, Justice

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

MARY DOE, GUARDIAN AD LITEM
FOR JANE DOE,

PLAINTIFF,

VS.

ROBERTO V. ARGUELLES, STATE
OF UTAH, UTAH STATE DEPART-
MENT OF SOCIAL SERVICES,
ANTHONY W. MITCHELL, EXECUTIVE
DIRECTOR OF UTAH STATE DEPART-
MENT OF SOCIAL SERVICES, UTAH
STATE YOUTH DEVELOPMENT CENTER,
RONALD STROMBERG, RALPH F. GARN,
SUPERINTENDENTS OF UTAH STATE
YOUTH DEVELOPMENT CENTER, RUSS
VAN VLEET, TREATMENT PLAN AND
RELEASE COORDINATOR FOR UTAH
STATE YOUTH DEVELOPMENT CENTER,

DEFENDANTS.

ORIGINAL

DEPOSITION OF:

RONALD STROMBERG

CIVIL NO. C-81-4944

PURSUANT TO NOTICE, AND ON THE 7TH DAY OF
JULY, 1982, COMMENCING AT THE HOUR OF 10:00 A.M., THE DEP-
OSITION OF RONALD STROMBERG, ONE OF THE DEFENDANTS IN THE
ABOVE-ENTITLED ACTION, WAS TAKEN IN THE LAW OFFICES OF
KIPP AND CHRISTIAN, P.C., 600 COMMERCIAL CLUB BUILDING,
SALT LAKE CITY, UTAH 84111 BEFORE EDWARD P. MIDGLEY, RPR,
A REGISTERED PROFESSIONAL REPORTER, AND CERTIFIED SHORTHAND
REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF UTAH.

APPEARANCES

MESSRS. CARMAN E. KIPP, ESQUIRE, AND DARIN

1 TO RELEASE HIM, YOU WOULD BE MORE COMFORTABLE ABSENT THE
2 OTHER SEX OFFENSES THAN PRESENT THEM; ISN'T THAT TRUE?
3 IN YOUR REPORT?

4 A THAT'S TRUE.

5 Q OKAY. ONE OTHER THING I HAD TO ASK: YOUR FILE
6 ENDS I BELIEVE--OR, SUBSTANTIALLY ENDS AT THE TIME OF THE
7 AGREEMENT OF RELEASE AND THE PROBATION--IMPLEMENTATION OF
8 PROBATION. DO YOU HAVE ANY RECORDS OR INFORMATION CONCERN
9 ING HIS COURSE OR MANAGEMENT OR WHAT HAPPENED TO HIM BE-
10 TWEEN DECEMBER AND MARCH?

11 A WHAT HAPPENS IN OUR SYSTEM, AT THAT TIME WITH
12 THIS, IS THAT THE PAROLE OFFICER WOULD SEND A QUARTERLY
13 REPORT BACK TO THE INSTITUTION, ONCE EACH QUARTER.

14 WE GOT OUR QUARTERLY REPORT BACK, BUT IT WAS
15 AFTER THE TIME OF THE TWO INSTANCES, AFTER MARCH 4TH AND
16 THE 6TH.

17 Q COULD I LOOK AT THAT?

18 A YES.

19 Q OFF THE RECORD.

20 (WHEREUPON, A DISCUSSION WAS HAD OFF THE
21 RECORD; AFTER WHICH, THE FOLLOWING PROCEED-
22 INGS CONTINUED:)

23 Q WE'VE MARKED THAT QUARTERLY EVALUATION OF Y.D.C.
24 PAROLEE AS EXHIBIT 16. IT'S DATED MARCH 12. AS YOU'VE IN-
25 DICATED, IT WAS AFTER THE OCCASIONS WE'VE BEEN TALKING ABOUT

1 A RIGHT.

2 Q AND YOU SAID YOU HAD SOME THINGS TO CLARIFY. LET
3 ME HAVE YOU DO THAT FIRST.

4 A I JUST WANTED TO EXPLAIN. PAROLE WAS NOT UNDER
5 THE DIRECTION OF THE SUPERINTENDENT. PAROLE--IN OTHER
6 WORDS, I HAD NO AUTHORITY OVER THE PAROLE. THEY HAVE THEIR
7 OWN FILE AND THEIR OWN RECORD.

8 Q WHO HAS THAT AUTHORITY?

9 A THE AUTHORITY FOR PAROLE AT THAT TIME WAS DIRECTLY
10 UNDER THE DIRECTOR, SO AT THIS PARTICULAR TIME JOHN BILLINGS
11 WAS THE DIRECTOR.

12 Q OF THE ADULT PAROLE--OR, OF THE PAROLE AND PROBATION
13 OF SOME KIND?

14 A WELL, THERE'S NO PROBATION IN THE YOUTH CORRECTIONS.
15 THAT'S UNDER THE COURT. WE HAD ONLY PAROLE, YOUTH
16 PAROLE.

17 Q THAT WAS UNDER WHOSE DIRECTION?

18 A JOHN BILLINGS WAS DIRECTOR AT THIS TIME. CRAIG--
19 WELL, LET ME GO THROUGH. MAYBE I CAN EXPLAIN. JOHN BILLINGS
20 WAS THE DIRECTOR. UNDER HIM WAS A PAROLE SUPERVISOR BY THE
21 NAME OF ROD STOWE. CRAIG BERTHOLD WORKED FOR ROD STOWE.

22 Q THAT'S THE GUY ON THE AGREEMENT?

23 A YES, THAT'S WHO WROTE THIS QUARTERLY AGREEMENT.
24 HE WAS HIS PAROLE OFFICER.

25 Q HOW WOULD ONE BE ASSURED THE CONDITIONS THAT YOU

1 FELT WERE NECESSARY TO THE MANAGEMENT OF THIS CASE WERE
2 POSED?

3 A WELL, THAT WAS THE RESPONSIBILITY OF THE PAROLE
4 AND THEIR DIRECTORSHIP. THE ONLY WAY I KNEW WAS WHEN I
5 WOULD GET A QUARTERLY REPORT OR WHEN I WOULD SEE THE PAROLE
6 OFFICER. THEY WERE ON CAMPUS QUITE OFTEN. I WOULD INQUIRE
7 ABOUT ABOUT KIDS, IN PASSING.

8 Q DO YOU KNOW WHETHER OR NOT HE RECEIVED THE CONTINUING
9 MANAGEMENT AND CARE THAT YOU'VE INDICATED YOU FELT
10 WAS NECESSARY?

11 A ONLY SINCE THEN I'VE ASKED. I ASKED--WELL, LET
12 ME CORRECT THAT. I DID TALK WITH MR. BERTHOLD SOMETIME IN
13 JANUARY, I DON'T KNOW WHEN. JUST IN PASSING I ASKED HIM
14 "HOW IS ARGUELLES DOING?" HIS REPLY TO ME WAS "GREAT, HE'S
15 WORKING FULL TIME. HE'S GOING TO SCHOOL IN THE EVENINGS
16 AND HE'S SEEING HIS COUNSELOR."

17 Q WAS HE GETTING PSYCHIATRIC OR PSYCHOLOGICAL COUN-
18 SELING?

19 A YES, HE WAS GETTING COUNSELING.

20 Q FROM WHOM?

21 A FROM THE FAMILY HEALTH PLAN, WAS THE ORGANIZATION
22 THAT I'VE ORDERED SINCE. ALSO--

23 Q HOW WAS THAT--

24 A --PRIOR TO HIS RELEASE.

25 Q --BY THE STATE?

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

MARY DOE, GUARDIAN AD LITEM
FOR JANE DOE,

PLAINTIFF,

VS.

ROBERTO V. ARGUELLES, STATE
OF UTAH, UTAH STATE DEPART-
MENT OF SOCIAL SERVICES,
ANTHONY W. MITCHELL, EXECUTIVE
DIRECTOR OF UTAH STATE DEPART-
MENT OF SOCIAL SERVICES, UTAH
STATE YOUTH DEVELOPMENT CENTER,
RONALD STROMBERG, RALPH F. GARN,
SUPERINTENDENTS OF UTAH STATE
YOUTH DEVELOPMENT CENTER, RUSS
VAN VLEET, TREATMENT PLAN AND
RELEASE COORDINATOR FOR UTAH
STATE YOUTH DEVELOPMENT CENTER,

DEFENDANTS.

COPY

DEPOSITION OF:

RALPH F. GARN

CIVIL NO. C-81-4944

PURSUANT TO NOTICE, AND ON THE 7TH DAY OF
JULY, 1982, COMMENCING AT THE HOUR OF 1:30 P.M., THE DEP-
OSITION OF RALPH F. GARN, ONE OF THE DEFENDANTS IN THE
ABOVE-ENTITLED ACTION, WAS TAKEN IN THE LAW OFFICES OF
KIPP AND CHRISTIAN, P.C., 600 COMMERCIAL CLUB BUILDING,
SALT LAKE CITY, UTAH 84111 BEFORE EDWARD P. MIDGLEY, RPR,
A REGISTERED PROFESSIONAL REPORTER, AND CERTIFIED SHORTHAND
REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF UTAH.

APPEARANCES

DARIN G. KENDALL, ESQUIRE, KIPP & CHRISTIAN,

1 A MORE THE EXCEPTION, YES.

2 Q OKAY. DID YOU RECEIVE ANY INPUT ABOUT HOW
3 IDUAL WAS DOING ON PAROLE OTHER THAN QUARTERLY STATUS
4 REPORTS FROM THE PAROLE OFFICER?

5 A ONLY IF THERE, AGAIN, WERE PROBLEMS AND SOMEONE
6 WAS CONSIDERING REVOKING PAROLE. HERE AGAIN THE EXCEPT

7 Q THE RESPONSIBILITY OF DETERMINING WHETHER AN
8 INDIVIDUAL WAS DOING OKAY ON PAROLE OR NOT WAS LARGELY IN THE HANDS
9 OF THE PAROLE OFFICER?

10 A CORRECT.

11 Q YOU HAD NO FORMAL FOLLOWUP METHOD OF REVIEWING
12 THE PAROLE OFFICER'S INFORMATION AND HIS THOUGHTS OTHER
13 THAN THE QUARTERLY REVIEW PROCESS?

14 A HE WAS THE INSTRUMENT.

15 Q IF HE COMES TO YOU AND SAYS "I WANT TO GET THIS
16 KID OFF THE STREET AND PUT HIM BACK INTO THE INSTITUTION,"
17 THAT WOULD BE A FLAG TO YOU TO REVOKE THE KID'S PAROLE?

18 A IT WOULDN'T BE AUTOMATIC. IT WOULD HAVE TO GO
19 THROUGH THE HEARING PROCESS, BUT--.

20 Q SURE. BUT THAT'S WHAT WOULD CAUSE A REVIEW AT
21 YOUR PART?

22 A YES.

23 Q OTHER THAN THAT THE ONLY INPUT YOU WOULD GET WOULD
24 BE THE REGULAR QUARTERLY STATUS REPORTS; IS THAT RIGHT?

25 A YES.

1 Q WOULD IT BE YOUR PRACTICE TO PERSONALLY REVIEW
2 EACH OF THE QUARTERLY REPORTS COMING IN?

3 A NO.

4 Q TELL ME WHAT YOUR PRACTICE WAS.

5 A TO REVIEW THE PROBLEM CASES THAT THOSE REVIEWS--
6 I WOULD REVIEW SOME OF THEM, BUT NOT ALL OF THEM. AND IT
7 WOULD NORMALLY HAVE BEEN REVIEWED BY THE TREATMENT COORDIN-
8 ATOR AND MR. STROMBERG.

9 Q IS IT FAIR TO SAY YOU WOULDN'T BECOME INVOLVED IN
10 THAT PROCESS UNLESS SOMEBODY ALONG THE LINE THOUGHT THERE
11 WAS A PROBLEM?

12 A CORRECT. NOW, ALL SUPERINTENDENTS ARE DIFFERENT.

13 Q SURE. YOU WOULDN'T HAVE HAD ANY WAY OF KNOWING
14 WHETHER AN INDIVIDUAL WAS MEETING THE TERMS OF HIS PAROLE
15 OR NOT, UNLESS THE PAROLE OFFICER CONTACTED YOU AND TOLD YOU
16 HE WASN'T?

17 A NOT UNLESS THERE WERE SOME OTHER MEANS OR GRAPE-
18 VINE OPERATING.

19 Q INFORMAL?

20 A INFORMAL.

21 Q DO YOU KNOW IF THE PAROLE REVIEW PROCESS OF EVAL-
22 UATING HOW A KID'S DOING ON PAROLE WAS SUBSTANTIALLY SOME
23 OTHER WAY--I ASKED THAT BADLY. DID YOU MAKE ANY CHANGES
24 IN THAT PROCESS, MAJOR CHANGES WHEN YOU TOOK OVER?

25 A THE PAROLE--.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

MARY DOE, GUARDIAN AD LITEM
FOR JANE DOE,

PLAINTIFF,

VS.

ROBERTO V. ARGUELLES, STATE
OF UTAH, UTAH STATE DEPART-
MENT OF SOCIAL SERVICES,
ANTHONY W. MITCHELL, EXECUTIVE
DIRECTOR OF UTAH STATE DEPART-
MENT OF SOCIAL SERVICES, UTAH
STATE YOUTH DEVELOPMENT CENTER,
RONALD STROMBERG, RALPH F. GARN,
SUPERINTENDENTS OF UTAH STATE
YOUTH DEVELOPMENT CENTER, RUSS
VAN VLEET, TREATMENT PLAN AND
RELEASE COORDINATOR FOR UTAH
STATE YOUTH DEVELOPMENT CENTER,

DEFENDANTS.

COPY

DEPOSITION OF:

RUSS VAN VLEET

CIVIL NO. C-81-4944

PURSUANT TO NOTICE, AND ON THE 7TH DAY OF
JULY, 1982, COMMENCING AT THE HOUR OF 3:30 P.M., THE DEP-
OSITION OF RUSS VAN VLEET, ONE OF THE DEFENDANTS IN THE
ABOVE-ENTITLED ACTION, WAS TAKEN IN THE LAW OFFICES OF
KIPP AND CHRISTIAN, P.C., 600 COMMERCIAL CLUB BUILDING,
SALT LAKE CITY, UTAH 84111 BEFORE EDWARD P. MIDGLEY, RPR,
A REGISTERED PROFESSIONAL REPORTER, AND CERTIFIED SHORTHAND
REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF UTAH.

APPEARANCES

DARIN G. KENDALL, ESQUIRE, KIPP & CHRISTIAN,

1 Q OR TO SAY IT ANOTHER WAY, IF HE'D STARTED IN,
2 COUNSELING, BUT THE REPORTS FROM COUNSELORS WERE THAT HE
3 WAS DOING LOUSY AND HE WAS REALLY A THREAT, THEY WERE IN
4 MAKING ANY PROGRESS, THAT WOULD HAVE SUBSTANTIALLY AFFECTED
5 YOUR JUDGMENT ABOUT RECOMMENDING A RELEASE OR NOT?

6 A YES.

7 Q YOU RECEIVED NO REPORT ABOUT HOW HE WAS DOING
8 COUNSELING OTHER THAN HE HAD STARTED COUNSELING?

9 A WELL, OTHER THAN HE HAD STARTED COUNSELING, AND
10 IT WAS MY UNDERSTANDING AGAIN IN TALKING TO CRAIG HE WAS
11 DOING FINE.

12 Q YES. THE PROBATION OFFICER TOLD YOU HE WAS DOING
13 OKAY; YOU DIDN'T RECEIVE ANY REPORTS?

14 A NO, I DIDN'T.

15 Q YOU DIDN'T REVIEW ANY REPORTS YOURSELF?

16 A NO.

17 Q IT WAS ALL WORD-OF-MOUTH FROM CRAIG?

18 A ONCE AGAIN THAT WAS--THE SYSTEM WORKED THAT WHEN
19 THE PAROLE WAS DECIDED UPON, THE RESPONSIBILITY REVERTED
20 TO THE PAROLE OFFICER AND HIS SUPERVISOR.

21 Q CERTAINLY. BUT THAT AUTHORITY WENT TO THE PAROLE
22 PEOPLE, THE PAROLE OFFICERS, AND THAT SIDE OF THE FENCE
23 AFTER THE DECISION TO RELEASE HAS BEEN MADE?

24 A YEAH. THE AUTHORITY WENT THERE. THE RESPONSIBILITY
25 TO FOLLOW THROUGH ON THE RELEASE PLAN WAS CERTAINLY

1 THERE ALSO PRIOR TO THE RELEASE.

2 Q AND YOU TOLD ME THAT THE DECISION TO RELEASE IN
3 THE FIRST PLACE WOULDN'T HAVE BEEN MADE OR YOU WOULDN'T
4 HAVE--.

5 A YES--WELL, I'M NOT SURE IT WOULDN'T HAVE BEEN
6 MADE. MY--.

7 Q LET ME ASK THAT--I'M NOT SURE YOU--IF YOU'D SEEN
8 A REPORT FROM A COUNSELOR THAT ROBERT WAS SEEING OUTSIDE
9 INDICATING THAT NO PROGRESS WAS BEING MADE AND HE WAS A
10 THREAT TO HIMSELF AND OTHERS, WOULD YOU HAVE RECOMMENDED
11 RELEASE?

12 A WELL, I DON'T KNOW. I DOUBT IT. I--AGAIN, I
13 DON'T KNOW HOW SOMEONE SEEING AGAIN, A PERSON, ONCE OR
14 TWICE WOULD MAKE SUCH A REPORT. BUT I DON'T KNOW HOW TO
15 SPECULATE ON THAT.

16 Q CERTAINLY, OR TO SAY IT ANOTHER WAY, SUCCESSFUL
17 COUNSELING AND THERAPY PROGRAMS TAKE TIME.

18 A THAT'S CORRECT.

19 Q YOU DON'T ACCOMPLISH SUBSTANTIAL, SIGNIFICANT
20 RESULTS OVER NIGHT.

21 A THAT'S CORRECT. AND THAT'S ONE OF THE REASONS--
22 SEE, I GUESS WE FELT--AS JANET BEGAN SEEING HIM THAT SHE
23 FELT THAT HIS INVOLVEMENT AND RESPONSIVENESS TO TREATMENT
24 WAS OUTSTANDING. SO WE CERTAINLY DIDN'T ANTICIPATE ANY
25 PROBLEMS WITH HIM IN THERAPY.

a division of expositions under the administration and general supervision of the executive director of the department and under the policy direction of the board of expositions. The division shall be the exposition authority of the state and is vested with such powers and required to perform such duties as set forth in law.

The division shall have the power, subject to approval of the board of expositions:

(1) • • • [Same as parent volume.]

(2) To provide and arrange for public entertainment, displays and exhibits and shall publicize and promote the various events, securing funds to cover the cost of the exhibits from private contributions and public appropriations, admission charges and by other lawful means. The division shall have general management, supervision and control over all activities relating to the centennial observances.

History: C. 1953, 64-4-5, enacted by L. 1967, ch. 175, § 57; L. 1969, ch. 199, § 39; 1979, ch. 234, § 41.

Compiler's Notes.

The 1979 amendment substituted references to the department of community and economic development for references to

the department of development services; substituted the "executive director of the department" for "the executive director of development services"; deleted a former subd. (2) relating to a centennial observance; redesignated the former subd. (3) as (2); and made minor changes in phraseology.

64-4-5.1. Director of division of expositions—Appointment.—The chief administrative officer of the division of expositions shall be a director appointed by the executive director of the department of community and economic development with the concurrence of the board. The director shall be experienced in administration and knowledgeable in the field of expositions and fairs.

History: L. 1967, ch. 175, § 58; 1969, ch. 199, § 40; 1979, ch. 234, § 42.

Compiler's Notes.

The 1979 amendment substituted "executive director of the department of community and economic development with the concurrence of the board" for "board of expositions, with the concurrence of the executive director of development services"; deleted "the executive and administrative head of the division of expositions" after "director shall be" in the last sentence; and made minor changes in phraseology.

Repealing Clause.

Section 43 of Laws 1979, ch. 234 provided: "Chapters 44 and 44b of Title 63, Utah Code Annotated 1953, Sections 37-4-2 and 37-4-5, Utah Code Annotated 1953, as enacted by Chapter 68, Laws of Utah 1957, and Section 64-31-7, Utah Code Annotated 1953, as enacted by Chapter 136, Laws of Utah 1965, as amended by Chapter 199, Laws of Utah 1969, are hereby repealed."

Effective Date.

Section 44 of Laws 1979, ch. 234 provided: "This act shall take effect on July 1, 1979."

CHAPTER 6—STATE YOUTH DEVELOPMENT CENTER

Section

64-6-1.1. Definitions.

64-6-2. Government, management, operation and control in division—Program authorization.

64-6-3. General powers and duties of the center and division.

64-6-4. Division to succeed to all powers and duties.

64-6-5. Superintendent—Appointment—Qualifications.

64-6-6. Division to visit center.

- 64-6-7. Instruction at center.
- 64-6-8. Placement of student outside center—Revocation of placement.
- 64-6-10. Community placement of students.
- 64-6-11. Escapes—Trespass—Penalty.
- 64-6-12. Term of commitment—Discharge.
- 64-6-13. Commitment beyond age twenty-one prohibited—Discharge after six months residence.
- 64-6-15. Expenses—When are students, parents and guardians liable.
- 64-6-16. Care of pregnant student—School responsible for—Student's fitness for custody.
- 64-6-18. Citizen advisory committee.

64-6-1.1. Definitions.—As used in this chapter:

- (1) "Division" means the division of family services.
- (2) "Department" means the department of social services.
- (3) "Center" means the Utah state youth development center.
- (4) "Student" means any juvenile, boy or girl, committed or admitted to the custody, care, and jurisdiction of the superintendent of the center.
- (5) "Placement" means a conditional release of a student, from residency within the center, to live outside the center under the supervision of an officer of the center or other person designated by the superintendent of the center. Such student may be released to his or her own home, to a foster home, or other appropriate residence, but shall remain under the jurisdiction of the center until discharged as provided for in sections 64-6-12 or 64-6-13, and may be subject to be returned to the center for law violation, or for failure to abide by the conditions of placement in accordance with section 64-6-8.
- (6) "Discharge" means a written order signed by the superintendent of the center, removing from the jurisdiction of the center and from the division any student who is either currently in residence or is residing outside the center in "placement" as defined in item (5).
- (7) "Revocation of placement" means the written order of the superintendent to terminate residence outside of the center of a student or former student, who has been granted the privilege of residence outside of the center, while continuing under the jurisdiction of the center. Such revocation may be made for law violation, or for failure to abide by the conditions of placement.
- (8) "Appeal" means the right of a parent or guardian to appeal the decision of the superintendent in cases where a student's placement has been revoked and he or she has been returned to residency within the center.

History: C. 1953, 64-6-1.1, enacted by L. 1973, ch. 174, § 2; L. 1979, ch. 235, § 2.

Compiler's Notes.

The 1979 amendment substituted "chapter" for "act" at the beginning of the section; substituted "Center" for "School" and "youth development center" for "industrial school" in subsec. (3); substituted

"center" for "school" throughout the section; inserted "64-6-12 or" before "64-6-13" in subsec. (5); substituted "Such revocation may be made for" in subsec. (7); substituted "Such revocation is made only for" for "of"; and made minor changes in punctuation.

64-6-2. Government, management, operation and control in division—
Program authorization.—The government, management, operation and control of the center shall be in the division.

The center, with the approval of the division and board of family services, may carry out innovative and cooperative programs in the care, treatment, placement, training, rehabilitation, evaluation, and, with the approval of the state department of education, in the education of students residing within the center, whether committed or referred by the juvenile court.

History: R. S. 1933, 85-6-1.10; L. 1941 (1st S. S.), ch. 24, § 1; C. 1943, 85-6-1.10; L. 1969, ch. 197, § 132; 1973, ch. 174, § 3; 1979, ch. 235, § 3.

Compiler's Notes.

The 1979 amendment substituted "cen-

ter" for "school" throughout the section; inserted "with the approval of the state department of education" in the second paragraph; substituted "students residing" for "children" in the second paragraph; and made minor changes in phraseology and punctuation.

64-6-3. General powers and duties of the center and division.—With the approval of the division and the department, the center may contract and be contracted with, and sue and be sued, in all matters concerning the center, and may contract to receive or place for care juvenile charges from or with the United States department of justice, other states of the United States, or other public or private agencies, on such terms and under such conditions as may be determined by the division with the approval of the department.

The division may take, in the name of the state, and hold in trust for the center, realty or personalty, and, with the approval of the department and in accordance with section 65-7-9, Utah Code Annotated 1953, may convert property, which is not suitable for the uses of the center into suitable property.

The superintendent may adopt policy and rules for the regulation of all the concerns of the center not inconsistent with the law, subject to approval of the division director and the board of family services.

The division shall see that the affairs of the center are conducted in accordance with the requirements of the law, and that a broad program of social services, counseling, and on-the-job training, with well-defined goals for rehabilitation, is available to the students. The superintendent shall approve the appointment of all officers and staff personnel necessary to achieve these goals and objectives of the center; and may remove any officer or personnel under his jurisdiction for good and sufficient reason, and fix the salaries to be paid to the officers and employees, according to standards established by the department of finance.

History: R. S. 1898 & C. L. 1907, § 2133; C. L. 1917, § 5366; R. S. 1933, 85-6-5; L. 1933, ch. 65, § 1; 1941 (1st S. S.), ch. 24, § 5; C. 1943, 85-6-5; L. 1957, ch. 142, § 1; 1965, ch. 141, § 1; 1969, ch. 197, § 133; 1973, ch. 174, § 4; 1979, ch. 235, § 4.

Compiler's Notes.

The 1979 amendment substituted "cen-

ter" for "school" throughout the section; deleted "education, pre-vocational and vocational training" after "broad program of" in the first sentence of the last paragraph; inserted "under his jurisdiction" after "officer or personnel" in the second sentence of the last paragraph; and made minor changes in phraseology and punctuation.

64-6.4. Division to succeed to all powers and duties.—The division shall succeed to all the powers, discharge all the duties, and perform all the functions which by existing and continuing law are conferred upon and required to be discharged or performed by the board of trustees of the center or by the public welfare commission. Whenever any existing or continuing law refers to or names the board of trustees of the center, the public welfare commission, or any employee or officer of the board or commission, it shall be construed to mean, refer to and name the division or the corresponding employee or officer of the division.

History: E. S. 1933, 85-6-5.10; L. 1941 (1st S. S.), ch. 24, § 2; C. 1943, 86-5-5.10; L. 1969, ch. 197, § 134; 1973, ch. 174, § 5; 1979, ch. 235, § 5.

Compiler's Notes.

The 1979 amendment substituted "center" for "school" in two places; and made minor changes in phraseology and punctuation.

64-6.5. Superintendent — Appointment — Qualifications.—The superintendent of the center shall be appointed by the director of the division with the approval of the executive director of the department. The superintendent shall be the executive and administrative head of the center and shall be a person who has a master's degree in social work or closely related field, and experience working with troubled youth.

History: E. S. 1898 & C. L. 1907, § 2135; C. L. 1917, § 5368; E. S. 1935, 85-6-6; L. 1941 (1st S. S.), ch. 24, § 5; C. 1943, 85-6-6; L. 1969, ch. 197, § 135; 1973, ch. 174, § 6; 1979, ch. 233, § 2; 1979, ch. 235, § 6.

Compiler's Notes.

Section 64-6.5 was amended twice in the 1979 Session, once by chapter 233, and once by chapter 235. Neither amendment mentioned the other. Since they do not appear to conflict, the compiler has made a composite section incorporating the changes made by both.

The 1979 amendment by chapter 233

substituted "a master's degree in social work or closely related field, and experience working with troubled youth" for "a combination of college or university training and experience in professional administration totaling at least eight years, with no fewer than four years of college or university study and no fewer than ten years of full time professional employment in fields related to the functions and administration of the school."

The 1979 amendment by chapter 235 substituted "center" for "school" throughout the section; and made minor changes in punctuation.

64-6.6. Division to visit center.—It shall be the duty of the division to visit the center as often as it may deem necessary to inquire into all matters connected with the government, discipline and operation of the center; and one or more of the members of the board of family services, or the director of the division, shall visit the center at least once in every month, examine the progress and behavior of the students, inspect the records and reports of the superintendent, and evaluate the administration of the center. Minutes of such visits and meetings shall be kept by the superintendent.

History: E. S. 1898 & C. L. 1907, § 2137; C. L. 1917, § 5370; E. S. 1933, 85-6-8; L. 1941 (1st S. S.), ch. 24, § 5; C. 1943, 85-6-8; L. 1969, ch. 197, § 136; 1973, ch. 174, § 7; 1979, ch. 235, § 7.

Compiler's Notes.

The 1979 amendment substituted "center" for "school" throughout the section; and made minor changes in phraseology and punctuation.

64-6.7. Instruction at center.—The state board of education shall be directly responsible for the educational program at the center, and shall

provide or make available to the students admitted to the center various types of instruction for students appropriate to their age, needs, and range of abilities, including pre-vocational and vocational training. Each student in the center shall be provided instruction comparable to that of other schools of learning. The student may also receive pre-vocational education designed to acquaint the student with the requirements and opportunities of several vocations in a manner designed to prepare the student for job entry, or motivate the student towards further training upon release from the center. The state board of education shall, where feasible, contract with local school districts or other appropriate agencies for provision by the latter of services to the center.

History: B. S. 1898 & C. L. 1907, § 2138; C. L. 1917, § 5371; B. S. 1933, 85-6-9; L. 1941 (1st S. S.), ch. 24, § 5; C. 1943, 85-6-9; L. 1969, ch. 197, § 137; 1973, ch. 174, § 8; 1979, ch. 235, § 8.

Compiler's Notes.

The 1979 amendment rewrote the first sentence which read: "The school under the direction of the division of family services shall provide or make available to the students admitted to the school various types of instruction for students appropriate to their age, needs, and range of abilities"; substituted "center" for "school" in the second and third sentences; added the last sentence; and made minor changes in phraseology.

appropriate to their age, needs, and range of abilities"; substituted "center" for "school" in the second and third sentences; added the last sentence; and made minor changes in phraseology.

Cross-References.

Responsibility of local boards of education for students committed to state institutions, 53-6-23.6.

Responsibility of state board of education for education of persons under 21 in custody of state agency, 53-2-12.3.

64-6-8. Placement of student outside center—Revocation of placement.

—The superintendent may, subject to the approval of the board of family services, establish rules and regulations under which any student may be allowed to be placed outside of the center, but such student shall remain in the legal custody and under the control of the center, and shall be subject at any time to be returned to the center, unless otherwise discharged. Full power to retake and keep any child on placement is conferred upon the superintendent of the center, whose written order shall be sufficient warrant to any officer authorized to make arrest to return to actual custody any student on placement. However, after a student is returned to the custody of the center for violation of the law or for placement violation, the superintendent shall arrange a hearing in accordance with procedures approved by the board of family services. The decision of the superintendent may be appealed by writing to the director of the division of family services.

History: B. S. 1898 & C. L. 1907, § 2149; C. L. 1917, § 5376; B. S. 1933, 85-6-10; L. 1941 (1st S. S.), ch. 24, § 5; C. 1943, 85-6-10; L. 1969, ch. 197, § 138; 1973, ch. 174, § 9; 1979, ch. 235, § 9.

Compiler's Notes.

The 1979 amendment substituted "center" for "school" throughout the section; and made minor changes in phraseology.

64-6-10. Community placement of students.—The division may contract with any institution or agency organized in this state to provide for the care, training, or rehabilitation of any student who shall be committed to the center, and shall pay for such care from the funds appropriated to the center. Such facilities may include but are not limited to foster homes, boys' and girls' group homes, camp programs or any other institution or agency approved by the division for the care, training, rehabilitation or

education of children and youth. Such student shall remain in the legal custody and under the supervision of the division and shall be subject at any time to be returned to the center.

History: R. S. 1898 & C. L. 1907, § 2150; C. L. 1917, § 5377; R. S. 1933, 85-6-12; L. 1941 (1st S. S.), ch. 24, § 5; C. 1943, 85-6-12; L. 1969, ch. 197, § 140; 1973, ch. 174, § 10; 1979, ch. 235, § 10.

Compiler's Notes.

The 1979 amendment deleted "educator" before "of any student" in the first sentence; substituted "center" for "school" throughout the section; and made a minor change in phraseology.

64-6-11. Escapes—Trespass—Penalty.—Every person who willfully aids or assists any student lawfully committed to the center in escaping or attempting to escape therefrom, or who knowingly conceals such student after his or her escape, or any person who, without permission, enters any of the buildings or enclosures appropriated to the use of the students, or makes any attempt to do so, or enters anywhere upon the premises belonging to the center and commits, or attempts to commit, any trespass or depredation thereon, or any person, either from within or without the enclosures, who willfully annoys or disturbs the peace or quiet of the center, or any student therein, is guilty of a misdemeanor.

History: R. S. 1898 & C. L. 1907, § 2151; C. L. 1917, § 5378; R. S. 1933, 85-6-13; L. 1937, ch. 119, § 1; C. 1943, 85-6-13; L. 1973, ch. 174, § 11; 1979, ch. 235, § 11.

Compiler's Notes.

The 1979 amendment substituted "center" for "school" throughout the section and made minor changes in punctuation.

64-6-12. Term of commitment—Discharge.—Every person committed to the center shall remain until he or she shall arrive at the age of 21 years, or be legally discharged, except that any student so committed shall not remain within the center for more than eighteen months without an administrative hearing before the superintendent, or a committee appointed by the superintendent, to consider the status of the student. Any student regardless of age, who has been on placement outside the center for twelve months or more, who has not been in violation of any state or federal law, or local ordinance, and who has made a good adjustment and successfully met conditions of placement, may be discharged by the written order of the superintendent of the center. The discharge shall be a complete release of all penalties incurred by conviction of the offense for which a student was committed.

History: R. S. 1898 & C. L. 1907, § 2147; C. L. 1917, § 5374; R. S. 1933 & C. 1943, 85-6-14; L. 1973, ch. 174, § 12; 1979, ch. 235, § 12; 1979, ch. 236, § 1.

Compiler's Notes.

Section 64-6-12 was amended twice in the 1979 Session, once by ch. 235 and once by ch. 236. Neither amendment mentioned the other. Since they do not appear to conflict,

the compiler has made a composite section incorporating the changes made by both.

The 1979 amendment, by chapter 235, substituted "center" for "school" throughout the section; and made minor changes in phraseology and punctuation.

The 1979 amendment, by chapter 236, substituted "21 years" for "nineteen years" in the first sentence.

64-6-13. Commitment beyond age twenty-one prohibited—Discharge after six months' residency.—No person shall be committed to the center for a term to extend beyond the time when he or she shall attain the age of

21 years; and the superintendent, by written order, may, at any time after six months' residency within the center, and upon satisfactory evidence of acceptable performance and behavior, discharge any student from the center.

History: R. S. 1898 & C. L. 1907, § 2148; O. L. 1917, § 5375; R. S. 1933, 85-6-15; L. 1941 (1st S. S.), ch. 24, § 5; C. 1943, 85-6-15; L. 1969, ch. 197, § 141; 1973, ch. 174, § 13; 1979, ch. 235, § 13; 1979, ch. 236, § 2.

Compiler's Notes.

Section 64-6-13 was amended twice by the 1979 Session, once by ch. 235, and once by ch. 236. Neither amendment mentioned

the other. Since they do not appear to conflict, the compiler has made a composite section incorporating the changes made by both.

The 1979 amendment by chapter 235, substituted "center" for "school" throughout the section; and made minor changes in phraseology and punctuation.

The 1979 amendment by chapter 236, substituted "21 years" for "nineteen years."

64-6-15. Expenses—When are students, parents and guardians liable.—

The superintendent shall estimate and determine, as nearly as may be, the actual expense per annum of keeping and taking care of persons committed to the center and, such amount, or portion thereof, shall be assessed to and be paid by students or parents who have sufficient financial ability to do so, or by guardians of students who have funds of the respective students that may be used for such purpose; provided, however, that this collection may be waived when, in the opinion of the division, enforcement of such collection would not be in the best interest of the student.

History: R. S. 1898 & C. L. 1907, § 2146; C. L. 1917, § 5373; R. S. 1933, 85-6-17; L. 1941 (1st S. S.), ch. 24, § 5; C. 1943, 85-6-17; L. 1965, ch. 142, § 1; 1969, ch. 197, § 143; 1973, ch. 174, § 14; 1979, ch. 235, § 14.

Compiler's Notes.

The 1979 amendment substituted "center" for "school"; and made minor changes in phraseology and punctuation.

64-6-16. Care of pregnant student—School responsible for—Student's fitness for child custody.—Whenever a student of the center is found to be pregnant, the superintendent of the center shall see that adequate prenatal and postnatal care is provided the student pending the birth of her child. It shall be the responsibility of the center to see that the mother is placed in an accredited hospital at time of delivery, and that competent medical services are provided her. If there is any question as to the fitness of the mother in raising her child, the superintendent shall petition the juvenile court to hold a custody hearing where such decision will be made. As soon after the child is born as the condition of the mother will permit, the mother may be returned to the center.

History: L. 1923, ch. 88, § 1; R. S. 1933, 85-6-18; L. 1941 (1st S. S.), ch. 24, § 5; C. 1943, 85-6-18; L. 1969, ch. 197, § 144; 1973, ch. 174, § 15; 1979, ch. 235, § 15.

Compiler's Notes.

The 1979 amendment substituted "center" for "school" throughout the section; and made minor changes in phraseology.

64-6-18. Citizen advisory committee.—There shall be established a citizen advisory committee to the center. This citizen advisory committee shall be formed and function in accordance with policy established by the state board of family services.

Members of the citizen advisory committee shall be paid for all actual and necessary expenses as determined by the board of examiners.

The state board of family services shall develop and adopt procedures that will facilitate the functioning of a citizens committee and that will expedite the exchange and flow of information between the center citizen advisory committee and the state family services.

History: C. 1953, 64-6-18, enacted by L. 1973, ch. 174, § 16; L. 1979, ch. 235, § 16.

Compiler's Notes.

The 1979 amendment substituted "center" for "school" in two places.

vided: "This act shall take effect July 1, 1979. Unless reenacted, this act shall be repealed and have no effect after July 1, 1981, and the development center shall assume responsibility for the education of persons committed to the center."

Effective Date.

Section 17 of Laws 1979, ch. 235 pro-

CHAPTER 7—UTAH STATE HOSPITAL AND OTHER MENTAL HEALTH FACILITIES

Section

- 64-7-9. Chief executive officer—Appointment—Qualifications—Duties.
- 64-7-10. Accounts—Records—Reports.
- 64-7-11. Clinical director—Appointment—Conditions and procedure—Duties.
- 64-7-12. Business manager—Bond—Duties.
- 64-7-14. Persons entering state mentally ill—Power of director.
- 64-7-20. Contribution by state.
- 64-7-24.5. Escape of criminals a class A misdemeanor.
- 64-7-28. Words and phrases defined.
- 64-7-30. Discharge of patient.
- 64-7-31. Release of voluntary patient.
- 64-7-32. Involuntary hospitalization procedures.
- 64-7-34. Temporary admission to mental health facilities—Requirements and policies—Costs.
- 64-7-35. Mental health commissioner—Appointment—Qualifications—Duties.
- 64-7-36. Involuntary hospitalization—Examination of patient—Hearing—Findings—Costs.
- 64-7-39. Notice to patient's guardian, spouse or next of kin.
- 64-7-42. Examination and discharge of patient—Report to division of mental health.
- 64-7-43. Release of improved patient—Conditions attached to release—Reexamination of facts by director—Return to inpatient care—Enforcement of order—Hearing.
- 64-7-46. Care and treatment.
- 64-7-47. Mechanical restraints—Clinical record.
- 64-7-48. Restrictions and limitations—Civil rights and privileges to which patients entitled.
- 64-7-52. Director—Powers and duties—Forms, reports, records.

64-7-9. Chief executive officer—Appointment—Qualifications—Duties—

The director of the division of mental health, with the advice and consent of the board of mental health and the approval of the executive director of the department of social services shall appoint a chief executive officer. The chief executive officer shall hold office at the will of the director of the division of mental health. The chief executive officer shall receive an annual salary, according to standards established by the department of finance and shall be a mental health professional who shall be a psychiatrist, psychologist, psychiatric nurse or social worker, qualified by education, experience in administration and state licensure or a hospital administrator qualified by education and experience in the mental health field. The chief executive officer of the hospital shall have general superintendence of the buildings, grounds and